

June 14, 2005

Donald S. Clark
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Ave. Room H-159
Washington, DC 20580

RE: Disclosures for Non-Federally Insured Depository Institutions under FDICIA

Dear Mr. Clark:

As a private citizen who has been involved with the issue of disclosures for privately-insured credit unions for many years, I have numerous concerns with the Commission's proposed regulations governing disclosures mandated by the 1991 *Federal Deposit Insurance Corporation Improvement Act* (FDICIA).

Upon review and consideration of the proposal, it is apparent that the Commission did not fully consider the fact that almost 14 years has passed since the enactment of FDICIA and the solicitation for public comment on proposed regulations. It is also clear that the Commission did not review existing regulations and best practices used by the federal banking and credit union regulatory agencies in adoption more burdensome and onerous regulations (other than wording) than those applicable for other credit unions and banks.

Periodic Statement Disclosures

Financial institutions have a long history of providing required disclosures on statements sent to members/customers including information about their share/deposit insurance provided. Both the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA) have appropriate disclosure requirements in this area.

Yet, the Commission is not proposing to use that use-used and understood standard. In the proposal, references to case law are cited for determining if disclosures are "conspicuous." This does not provide any guidance to privately insured credit unions, especially those defined as "small" under the *Regulatory Flexibility Act*.

I encourage the Commission to adopt the standard disclosure requirements applicable in the financial institution regulatory marketplace as meeting the standards of FDICIA rather than reliance upon court cases that are not immediately available to most private-insured institutions.

Disclosures in Advertising

I support full and complete disclosure for advertising that involves share/deposit accounts at privately insured institutions. This should be included within required disclosure (such as Truth-In-Savings), marketing materials for share accounts, new account materials and anything that involves the deposit of funds into privately-insured credit unions.

However, as I discussed above, both the NCUA and FDIC have tremendous amounts of experience in this area for federally insured institutions and that experience should be utilized by the Commission in this area. Those exemptions provided to federally insured institutions should be available on the same basis for privately-insured credit unions under FDICIA.

Disclosures at Deposit Locations

This proposal represent regulatory overkill far in excess of what Congress required. If Congress required such disclosures, then they would also be applicable to federally insured institutions. This would have been apparent in this legislation which resulted in the transfer of more than \$150 billion of taxpayer funds (in addition to \$3 billion annually from American taxpayers to cover the interest expenses of the bonds sold to generate that \$150 billion).

Appropriate disclosures should be required at the branch offices and any physical location that a privately-insured credit union has its employees accept deposits from members. No disclosure should be required at automated teller machines (ATMs) because neither the NCUA nor the FDIC require such at the ATMs of its federally insured institutions.

Credit unions have developed networks of “shared branching cooperatives” that allow credit unions members to use other credit unions to conduct their financial transactions as if at their own credit union. It would be impossible for any privately-insured credit union to ensure that hundreds of credit unions nationwide with thousands of branches have the required private-insurance disclosure language at every one of these shared branch teller locations. The NCUA has existing guidance in this area allowing for a list of privately-insured credit unions to be displayed at a open location in the federally insured credit unions that participate in shared branching. Also the major shared branching cooperatives have contractual requirements dealing with private deposit insurance disclosure.

I ask the Commission to look at the existing regulatory practices of the NCUA in this area to see if they can be modified and adopted to insure one general set of regulatory standards in this area.

Impact on State Regulators

It does not appear that the Commission worked with state credit union regulators in developing this rule - especially given that it imposes requirements upon the state regulators.

In addition, it is unclear if the Commission will require state regulators to enforce these regulations or will be conducting its own examinations for compliance.

Significant Alternatives to the Proposed Rule

While I would hope that some of the unneeded regulatory requirements will be reduced upon publication of the final rule, a 30-day timeframe for compliance would be impossible for privately-insured credit unions to meet because of the mandates included within this proposal as written.

Notices required for ATMs would need to be developed, ordered, produced, shipped, received and installed. This process will take more than 30 days. In addition, requiring all advertising (other than involving savings accounts which is already being done) to have new disclosure requirements will require new printing of brochures, posters, etc. which will take longer than 30 days.

Should the regulation be adopted in a manner as proposed, I would encourage the Commission to allow an optional period of compliance for the “new” requirements to be for 120 days. This “optional” compliance is commonplace when the Federal Reserve Board adopts changes to disclosure regulations that mandate changes to physical documents allowing for development, printing, distribution and training time.

I thank you for this opportunity to submit my comments. (These opinions are mine and do not reflect the opinions of any current or previous employer.) If you have any questions, I would be pleased to answer them.

Greg Badovinac
North Hollywood, CA